

UNITED STATES DISTRICT COURT

FILED
CHARLOTTE, NC

for the

JUN 29 2022

Western District of North Carolina

US DISTRICT COURT
WESTERN DISTRICT OF NC

Charlotte Division

Poppi Kush Swindell

Case No.

3:22cv291-FDW
(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Charlotte-Mecklenburg Board of Education

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Poppi Kush Swindell
Street Address	13907 Glendevon Ct.
City and County	Charlotte, Mecklenburg
State and Zip Code	North Carolina, 28273
Telephone Number	704.588.7716
E-mail Address	Poppi.Swindell@agrakor.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Charlotte-Mecklenburg Board of Education
Job or Title <i>(if known)</i>	Oksana Cody N.C. State Bar No. 45393 Attorney for Defendant
Street Address	600 E. Fourth St., 5th Floor
City and County	Charlotte, Mecklenburg
State and Zip Code	North Carolina, 28202
Telephone Number	(980) 343-3000
E-mail Address <i>(if known)</i>	Oksanak.cody@cms.k12.nc.us

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	-
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Charlotte Mecklenburg Schools
Street Address	4435 Stuart Andrew Blvd
City and County	Charlotte, Mecklenburg
State and Zip Code	North Carolina, 28217
Telephone Number	(980) 343-6715

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Other federal law *(specify the federal law)*:

☐ Relevant state law *(specify, if known)*:

☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts *(specify)*: _____

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
From September 2020 to October 2021 and an earlier occurrence April 2020.

C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
- ☒ disability or perceived disability *(specify disability)*
Anxiety and Chronic insomnia.

E. The facts of my case are as follows. Attach additional pages if needed.

See the attached.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)* March 29, 2022

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☐

issued a Notice of Right to Sue letter, which I received on *(date)* 06/12/2022

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☒

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Legal fees for discovery and trial. Punitive and exemplary damages for emotional suffering and financial harm
\$298,800. Reimbursement for overcharge of Healthcare insurance payments, approx: \$1114.72

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/20/2022

Signature of Plaintiff

Printed Name of Plaintiff

Poppi Swindell

B. For Attorneys

Date of signing: 06/28/2022

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, NC 28202
(980) 296-1250
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 04/04/2022

To: Mr. Poppi K. Swindell
13907 Glendevon Ct.
CHARLOTTE, NC 28273

Charge No: 430-2022-01007

EEOC Representative and email: Patrick Scoggins, ISA
patrick.scoggins@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 430-2022-01007.

On behalf of the Commission

**CHRISTINE
SMITH**

Digitally signed by CHRISTINE
SMITH
Date: 2022.04.04 16:15:52
-04'00'

For Thomas M. Colclough
District Director

Facts of my Case

1. My employer, Charlotte Mecklenburg board of Education, hereafter known as "My Employer", omitted taking a deduction from my paycheck for my portion of my healthcare payments for at least two months.

My Employer then billed me over \$1200 a month for two months for the entire monthly cost of my healthcare. I offered for them to take the payroll payment back and correct the error, or for them to take it from what was left from my leave balance, which they did, and while doing so they over charge me about \$1114.72 which was never reimbursed.

The representatives in the benefits department I first contacted denied an error on their part, erroneously interpreting the document which shows how the benefit start date is determined.

2. After having been approved for extended short term disability through the state of NC, who set my disability start date to September 1st, 2021, My Employer changed the effective start date against state policy to October 1st, which left a month-long gap in my policy while I was undergoing radiation therapy and other medical treatments. This retaliation caused emotional and physical harm, as well as financial harm and harm to my credit report.

Several employees of "My Employer" in the benefits dept. adamantly denied an error had been made and refused to assist. It was approximately two months before I was able to get who I believed was the dept. manager to correct the blatant retaliation.

3. Around April 2020, my prior manager and her assistance adamantly refused to approve my request for Spring Break leave, even after the payroll processor informed them that I was eligible for Spring Break leave.